



**AUDIT OF
ANIMAL CARE FACILITIES
INSPECTION PROGRAM**

From The Office Of State Auditor
Claire McCaskill

Report No. 2001-09
February 15, 2001

Division of Animal Health inspectors did not properly inspect animal care facilities and canines were left at risk. Program personnel chose to encourage breeders to comply with regulations rather than sanction them.

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PERFORMANCE AUDIT



Office Of The
State Auditor Of Missouri
Claire McCaskill

February 2001

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Commercial dog breeders have no incentive to comply with Missouri laws, leaving canines at risk for substandard care.

Missouri has the highest percentage of licensed commercial dog breeders in the nation, yet the state program that regulates these breeders is ineffective, our audit found. Our concerns about the Division of Animal Health's animal care inspection program fall into four main areas: spotty state inspections with few sanctions; appearance of conflicts of interests of top management; state inspections less thorough than federal inspections; and lax program performance measures.

No penalties from state inspections

State inspectors have not fined, revoked or suspended licenses of any Missouri commercial breeder in at least two years. Whereas, in just one of these years, federal inspectors fined 11 of Missouri's commercial breeders in excess of \$14,000. State program officials would rather "encourage" breeders to improve, rather than issue sanctions. This philosophy means inspectors often tell breeders about violations rather than recording or fining them. Such a practice leaves the program little paper trail to track violations and breeders little incentive to correct problems. (See page 6)

Federal inspections more thorough

An average state inspection for the three inspectors we accompanied takes only 15 to 30 minutes, as compared to an average 90-minute federal inspection. During the state inspections, not all inspectors check for expired medications, reconcile the number of dogs in a facility to its inventory records, or review records of how dogs were received or distributed. All of these inspection tests concern a dog's health under a breeder's care.

State inspectors did not coordinate inspections with federal authorities, which caused overlapping inspections at some facilities. In one case, state and federal inspectors arrived on the same day, but reported starkly different conditions. State inspections reported no violations, while federal inspectors noted seven violations, including six repeat violations. (See page 4)

SHEET
MOTLEY
YELLOW

In addition, some state inspectors did not note violations, such as a dog struggling to keep its foot from falling through the wire mesh flooring; while other state inspectors said they knew if the dogs were healthy by looking at their eyes and coats. (See page 2)

State inspectors initially told our auditors that they do not “nitpick” like the federal inspectors and dismissed the federal inspections as unreliable. However, in their response to our audit, department officials then presented the federal inspections as a collaborative effort with state agents, which has not been the practice. (See page 8)

Inspector time logs need monitoring

Our review showed that managers do not have a reporting system to easily analyze how inspectors spend their time. We analyzed weekly activity reports of 5 inspectors over a four-month period. One inspector reported an average 10.4-hour workday. Using conservative calculations that included travel time and our observation that inspections took about 30 minutes, this inspector had an average of 4.7 hours each day not spent on daily inspections. When our staff noted this to program officials, they stated an average inspection took 4 hours, but they did not have data to support this statement. (See page 16).

Appearance of Conflict of interest

The program coordinator and an inspector, both responsible for monitoring Missouri’s breeding industry, were former commercial breeders. They are still involved in the industry through their wives, who now run their former businesses. Missouri law includes business ownership through a spouse in the conflict of interest definition. (See page 10)

Our recommendations included changes to make a more effective inspection program and taking action to resolve conflicts of interest or the appearance of a conflict of interest within the animal care facilities inspection program.

Subsequent to receiving the Department’s official response, effective January 26, 2001, the program coordinator and the inspector were reassigned to other duties within the Department of Agriculture and no longer have a role in the canine inspection program.

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CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Bob Holden, Governor
and
Lowell Mohler, Director Department of Agriculture
and
Dr. John W. Hunt, Jr., Director Division of Animal Health

The State Auditor's Office audited the Department of Agriculture's Division of Animal Health's animal care facilities inspection program. The audit was initiated because of negative publicity concerning care of canines by breeders licensed in Missouri, and because of the State of Missouri's prominent role in licensing and monitoring approximately 33 percent of all animal care facilities nationwide.

The purpose of the audit was to determine if animal care facilities program personnel effectively managed the inspection program for licensed breeders. The audit focused on the inspection program for commercial breeders. The audit focused on the conduct of inspections, actions taken as a result of the inspections, coordination with the U.S. Department of Agriculture inspectors, and management reporting systems.

The inspection program is not well managed and improvements are needed to ensure that violators of Missouri law are properly notified and proper sanctions are used to ensure compliance and to protect the canines. There appears to be a conflict of interest in that key officials have spouses who manage commercial breeding businesses.

A handwritten signature in cursive script that reads "Claire McCaskill".

Claire McCaskill
State Auditor

November 20, 2000 (fieldwork completion)

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RESULTS AND RECOMMENDATIONS

1. Animal Care Facility Act Inspections Need to Be More Effective

Inspections of commercial breeder facilities were not thorough, did not disclose many violations, and did not result in reporting all violations when compared to federal inspections. Laxity in the inspection program has occurred because management's philosophy favors commercial breeders and effective procedures for inspecting facilities do not exist. Program officials do not stress fines and sanctions; rather they "encourage" breeders to improve. This philosophy is implemented by some state inspectors and as a result, the tracking of offenses that would ultimately lead to fines and suspensions, is not always occurring. Therefore, commercial breeders have little, if any, incentive to comply with state statutes or to correct violations, and canines are vulnerable to inadequate care.

Background

Missouri has become a major player in the breeding and sale of canines. As of September 30, 1999, approximately 33 percent of all commercial breeders licensed and monitored nationwide by the U.S. Department of Agriculture operated in Missouri, which is the highest concentration of breeders among all the states. The state legislature established the Animal Care Facilities Act in 1992 to provide state oversight to all breeders, dealers, exhibitors, hobbyists, boarders, retail pet stores, animal shelters, and municipal pounds involved in the sale or care of canines and cats that meet the requirements of the Act.

The Missouri Department of Agriculture established the animal care facilities act program in 1994, in order to carry out the provisions of the Act. With minor exceptions, state program regulations parallel U.S. Department of Agriculture regulations and outline minimum requirements for the operation of animal facilities. In April of 1994, the director of the state Animal Health Division entered into a memorandum of understanding with U.S. agricultural officials. That agreement promoted coordination between state and federal program officials to reduce duplication of effort by inspectors and established procedures to share federal inspection reports on facilities that are licensed by state and federal agricultural officials. This agreement included the understanding that federal inspectors were also acting as state inspectors for animal facilities dually licensed by the state and federal government. As of June 30, 2000, there were approximately 1,962 licensed and registered animal facilities in the state. Of that amount, approximately 1,107, or 56 percent, were licensed as commercial breeders. (*See Appendix II, page 20, for additional information*).

State inspections are not as thorough as federal inspections

Our comparative analysis and observation of inspections of commercial breeders by four state program inspectors and one federal inspector disclosed that state inspectors (1) did not inspect as many areas at commercial breeder facilities as federal inspectors; (2) took less time than federal inspectors at similar facilities; and (3) did not always cite obvious violations.

Table 1.1 compares inspection activities addressed by the federal and state inspectors, based on our observations of, and discussions with, inspectors during inspections.

Table 1.1 Comparison of Federal and State Inspection Coverage

Areas of Inspection	Federal Inspection	State Inspection
Checked conditions of shelter/pen	x	x
Checked conditions of food and water	x	x
Checked for expired medication	x	
Counted number of canines on-hand	x	
Reviewed disposition records ¹	x	
Reviewed acquisition records ²	x	
Verified canines' identification tag information to facility owners' records	x	

State inspectors addressed fewer areas than the federal inspector in part, because state inspectors limit inspection efforts. Two of the state inspectors stated they focus inspection efforts on basics such as adequate food and shelter, as well as the appearance of the canines, or that they relied on federal inspectors to review facility records. One inspector stated that he could look at their eyes and coat and tell whether the owner is caring for them.

State inspectors do not always check the identification and the number of canines at breeder facilities, which are important elements of animal care. The inspectors need to ensure that all canines that were at the facility were accounted for either through presence at the facility or through records of disposition. The federal inspector we accompanied on visits to facilities emphasized the importance of inspecting the activities identified in Table 1.1. For example, he verified that canines were identified and he counted the canines. He then verified his count of canines against facility owners' records to ensure that the records accurately reflected the acquisition and disposition of canines. At one of the facilities visited, the records did not agree, and he cited the facility for a violation.

Inspections do not measure up to federal inspections

During our site visits to facilities with state inspectors, we noted the following

- State inspectors took from 15 minutes to 30 minutes to complete each inspection at 4 commercial breeder facilities visited. One of the inspectors stated that this time-span was typical for 95 percent of his facilities, but later he commented that occasionally he might spend as much as 45 minutes to an hour. This compares to 1.5 hours taken by the federal inspector we accompanied on two inspections of similar facilities.
- At one facility, the state inspector did not cite the facility's owner for a violation that was readily apparent. For example, we observed canine feet slipping through the floors of wire cages. This is a violation under the animal care facilities act, and a violation that federal inspectors would normally include in an inspection report. However, the state inspector responsible for this facility stated that he did not see the condition we described. When asked if he would have documented this violation on the inspection report, he stated that he knew this facility owner and felt she would have corrected the

¹ One state inspector reviewed these records.

² One state inspector verified that the owner had these records, but did not review them.

problem based on his verbal recommendations. Based on this discussion, the inspector neither saw the violation, nor would have reported it if he had seen it.

The state program lacks procedures to assure thorough inspections

Program officials did not establish formal procedures to ensure uniform and thorough inspections of commercial breeder facilities. This has occurred because management chose to rely on experienced inspectors to teach new staff how to do inspections in place of formal procedures. Inspectors do not have guidance, other than program regulations, to guide them in inspecting commercial breeder facilities.

At one time, inspectors had some guidance they could use to assist them with facility inspections. As late as October 1998, inspectors used an inspection form that specified items and areas to be inspected. It also referenced federal and state guidance for each area inspected. Based on our sample of inspection reports, inspectors stopped using this form in late 1998. The program coordinator could not explain why inspectors stopped using the form. In its place, inspectors now use a blank form to record non-compliant items when inspecting facilities. The current form makes no reference to what to inspect or guidance that would be helpful in deciding whether or not a violation had occurred.

Inspectors
need
better
procedures

Federal inspectors report more violations than state inspectors

Audit tests of 216 state and federal inspection reports at 40 commercial breeder facilities, licensed by the state and federal governments, revealed that federal inspectors cited breeders for violations more frequently than state inspectors. Federal inspectors reported violations in 73 percent of their inspections while state inspectors only reported violations in 42 percent of their inspections at the same facilities. Examples of inspection results follow.

- State and federal inspectors inspected a facility on the same day. The state inspector reported no problems. However, a federal inspector visited the facility in the afternoon and reported seven items of non-compliance; six of the reported items were violations that the federal inspectors noted during a previous inspection.
- A federal inspector visited a facility and reported three items of non-compliance; two of these items were also noted during the prior federal inspection. A state inspector visited that facility later the same day and noted no violations.

In the two examples discussed above, federal inspectors reported violations such as improper wire flooring, which could injure canines' feet; medications that had expired; canines that had not been properly identified; and enclosures that had not been cleaned. State inspectors did not report any of these violations.

- A state inspector performed a routine inspection without noting any items of non-compliance. However, a federal inspector examined the same facility 1 day later

and cited the owner for using improper items to provide shelter to canines. Furthermore, the federal inspector reported the same violations during the previous federal inspection.

- A state inspector inspected a facility and the report did not indicate findings of non-compliance. However, 7 days later, a federal inspector reported the owner for using improper sized wire for flooring, which could injure the canines' feet. In addition, the federal inspector indicated that the premises were not clean and free of rodents.
- At one facility, a federal inspector noted that canines' pens were not properly cleaned and that records were not updated with an accurate count of the animals. Less than a month later, the state inspector inspected this facility and did not note any violations. However, a federal inspector revisited the facility within 1 month after the state inspector and reported the same problems previously reported.

State inspectors do not report all violations

Our site visits with state inspectors disclosed that the state inspector did not document all violations. For example, one state inspector noted a corroded clamp on a water pipe and dirty water containers at a facility but did not document these violations on the inspection report. Instead, the inspector discussed these items informally with the facility owner. At another facility, a different inspector noted that some canine shelters did not have wind and rain breakers that shield canines from the weather. This inspector also discussed these items informally with the facility owner and did not report them.

Inspectors are not reporting violations

When asked why all violations are not documented, one of the inspectors stated that, based on his working relationship with different breeders, he often knows whether or not the breeder would correct the problem upon his verbal recommendation. Another inspector stated that he does not "nitpick" breeders like federal inspectors do. He does not cite breeders for minor violations; instead he handles those violations informally. He also stated that he tries to help breeders get into compliance and does not want to fine them.

According to program personnel, state inspectors should be following a system similar to that used by federal inspectors to report violations. This system provides for tracking repeat violations and, if necessary, setting the stage for sanctions against the breeder. For example, the first time a violation is reported, it is classified as a category III violation. If the state inspector finds the same condition on the next inspection, it would be reported as a category IV. If that violation has not been corrected by the next inspection, it would be reported as a category V violation. When a commercial breeder receives a category V, the breeder is subject to an administrative hearing. The administrative hearing provides the facility owner with an opportunity to refute the alleged violation. If the violation finding is upheld, program officials can levy up to \$1,000 per violation or take other remedial action to correct violations. In addition, the facility owner is charged a fee of \$100 for a follow-up inspection. Under this practice, a facility owner is given several chances to correct a violation before action is taken. However, if inspectors do not report violations, the breeders will not be subject to penalty because violations must accumulate before sanctions are imposed.

Program officials do not take action to penalize breeders

Program officials have not fined, revoked, or suspended licenses of any dually licensed (federal and state licensed) commercial breeder facility operators in the last 2 years. Although there are no records available, program personnel stated that even prior to 1998 there had been no administrative hearings. This has occurred because program officials believe they should work with commercial breeders to improve operations instead of levying fines and revoking or suspending licenses of breeders that violate state licensing regulations. Program officials stated that their role is to help facility owners correct problems and allow owners to use funds that would have resulted from fines to improve operations of the facility.

The inspection
program
favors
breeders

Several of the state inspectors we accompanied on inspection visits demonstrated management's philosophy of helping breeders achieve compliance. They stated that it is their duty, or "it is best", to get breeders into compliance rather than to fine them. However, some of these inspectors also expressed frustration that when breeders are reported for violations, program officials do not pursue fines as a means to enforce program regulations. One of the inspectors stated that more hearings and enforcement are needed; otherwise, inspectors have no authority or ability to enforce the program. Another inspector expressed frustration because there are facilities cited by federal inspectors with serious problems and no action is taken at the state level against these offenders or other repeat offenders.

Some
inspectors are
frustrated

Federal officials use penalties as a means to enforce corrective action

Federal officials use penalties as a means to enforce animal care regulations. For example, from October 1, 1999 to September 30, 2000, federal records showed officials levied penalties of \$14,640 against 11 commercial breeders. Federal officials collected \$10,540 in penalties from the 11 commercial breeders and also required 6 of the 11 breeders to spend \$4,100 to correct problems at their facilities. Federal personnel also followed up with breeders to ensure that funds were spent to correct problems.

Federal
inspectors get
results

According to a federal inspector, the federal system of reporting violations helps assure violations are corrected. For example, the first time a violation is noted it is classified as a category III violation. If the inspector notes the same violation during the next visit, the violation category is increased to IV. Then, if the facility owner still does not correct the problem by the next inspection, the inspector turns the case over to an investigator. Once the investigator verifies the violation, he turns the case over to the U.S. Department of Agriculture's Office of General Counsel. Personnel in that office take action against the facility's owner that ultimately results in a penalty and corrective action. As discussed on page 5 of this report, state inspectors are supposed to be following a similar practice, however, not all violations noted by state inspectors are documented.

The Animal Care Facilities Act provides necessary authority to enforce penalties

The state's Animal Care Facilities Act provides that the Director of the Missouri Department of Agriculture may revoke, or refuse to renew, a commercial breeder's license when the breeder fails to provide adequate food, water, housing or sanitary facilities, or fails to meet other provisions of the Act.

State
inspectors
have authority
to sanction

The Act also provides that monetary penalties can be levied against offenders cited by the state. This could occur when a facility's owner is cited for various violations and the Director, or his designee, requests an administrative hearing. If the hearing's officer upholds findings, the Director can take action against the owner that is enforceable in a court of law. In addition, a fine of up to \$1,000 per violation can be levied against the facility's owner.

Conclusion

The state legislature provided program officials with the authority to enforce penalties and sanctions against commercial breeders. However, officials have not used the authority to enforce fines and other sanctions. Program officials may have meant well by coaching breeders into compliance rather than citing them for violations, however, they have undermined their capability to take action against non-compliant breeders. In an effort to help breeders achieve compliance, state inspectors are not always recording violations, which keeps them from tracking repeat offenders or noting when violations occur that would lead to an administrative hearing and possible fine or suspension. When inspectors overlook or do not report violations, and management consistently takes no action to enforce regulations, commercial breeders have no incentive to follow state regulations or correct deficiencies noted by state inspectors. Also, by not pursuing inspections and citing violations as called for in the statutes, program officials give the appearance that they are favoring commercial breeders and there is an increased likelihood that canines are not receiving adequate care.

Recommendations

We recommend the Animal Health Division Director:

- 1.1 Establish formal inspection procedures to ensure that inspectors have adequate guidance to follow in conducting inspections.
- 1.2 Establish a formal training program to ensure inspectors are adequately trained.
- 1.3 Ensure inspectors consistently follow inspection procedures to assure thorough inspections take place and that all violations are recorded and reported.
- 1.4 Take action to enforce penalties in order to ensure commercial breeders comply with provisions of the Act.

Director of Division of Animal Health Comments

Full text comments are included in Appendix III, page 23.

Recommendation 1.1—The Animal Care Inspection Worksheet once served as the first page of the inspection report, with narratives cited on subsequent pages. Although we believe the narrative report we use now is easier to read, the Animal Care Inspection Worksheet will be added to the official inspection report.

Recommendation 1.2—At our February 2001 Animal Care Facilities Act work conference we will reevaluate all inspection procedures and develop a new employee-training workbook.

Recommendation 1.3—As stated in 1.1, the Animal Care Inspection Worksheet will be incorporated into the official inspection report. The work conference scheduled for February 2001 will stress the need to document all non-compliant items during an inspection; even those corrected on the same day.

Recommendation 1.4—Missouri law does not establish a separate investigative arm to parallel federal procedures when taking punitive action against a licensee. We are exploring the possibility of developing language in the Memorandum of Understanding to utilize the IES investigator in our state to help develop investigative reports that might lead to an administrative hearing. In addition, a Memorandum of Understanding has been signed between the Missouri Administrative Hearing Commission and the Missouri Department of Agriculture to provide hearing officers for administrative appeals. The division director also provided a recap of the number of sanctions imposed on Missouri commercial breeders by the U.S. Department of Agriculture for the fiscal year 2000, and a list of four examples where actions were taken by the Animal Care Facilities Act personnel to enforce penalties to ensure commercial breeders comply with provisions of the Act.

State Auditor Comments

Responses to recommendations 1.1, 1.2, and 1.3 meet the intent of our recommendations. The response to recommendation 1.4 meets the intent of the recommendation however the narrative does not adequately portray circumstances as they exist. The actions taken by federal inspectors were appropriate and represent proper sanctions against commercial breeders and for the purposes of overseeing the commercial breeding industry they represented the state well. Although represented by the division director as a collaborative achievement for the division, federal inspections were not considered so at any time during our audit. In fact, the division director and the program coordinator on more than one occasion dismissed the federal inspections as unreliable and “nitpicky”. When the auditors advised both individuals at the exit conference for this audit that the federal inspections were far better than the inspections conducted by the state inspectors, the division director acknowledged that the federal inspections could be of value to them. Additionally, although there was a memorandum of understanding that the federal inspectors were agents of the state, neither the division director nor the program coordinator treated it as such. In response to our questions as to why state inspectors were going to the same places the federal inspectors were going to, sometimes on the same day, they stated that they could not rely on the federal inspectors because their inspections were not as good as the state inspections. The program coordinator advised that since the memorandum was not

signed, although it was signed, he did not view it as being in effect. As we cited in the report, the state inspectors did not sanction commercial breeders and fortunately the federal inspectors did.

The division director's examples of actions taken to enforce penalties to ensure commercial breeders comply with provisions of the Act do not accurately address the problems we found in state sanctioning of breeders. As stated in the report, federal inspectors were citing the same breeders that state inspectors were not citing. Regarding the four examples, two cases resulted in the collection of \$100 reinspection fees, one of which was handled by the prior program administration and the other involved a facility owner cited for serious (category V) violations that should have warranted an administrative hearing along with a substantial fine. Another case involved an instance where the Humane Society and a local Sheriff's department seized animals from a facility. The final case involved an instance in which the state inspector convinced a commercial breeder to reduce the number of canines, exempting him from licensing requirements.

2. Conflicts of Interest Appear to Exist Within the Animal Care Facilities Act Program

Conflicts of interest appear to exist at the management and staff levels of the animal care facilities act program. The program coordinator and a state inspector were licensed as commercial breeders while performing state duties that included inspecting commercial breeders. Although both individuals later removed their names from the licenses, the commercial breeding facilities are still licensed and operated by their wives. Missouri statutes include spousal relationships in the definition of business interests that could conflict with state employment. Senior management officials did not consult the Missouri Ethics Commission concerning the conflicts, although they were aware of the individuals' businesses. As a result, the animal care facilities program is managed and operated by persons whose spouses have business interests in the same industry they are regulating, and there is no assurance to the public that inspections of commercial breeders will be conducted in an unbiased manner. Such biases could result in lax inspections of commercial breeders and a reluctance to sanction violators. Chapter 105 of the Missouri statutes addresses conflict of interest issues. More specifically, Section 105.450, RSMo Cum. Supp. 1999, states that ownership of 10 percent or more of a business entity by an individual, or an individual's spouse, constitutes a "substantial interest" in that business entity.

Conflict of interest issues may exist that have not been resolved

Program officials hired the program coordinator in September 1998 and a state inspector in October 1997. At that time, both individuals and their wives operated commercial breeding facilities that had been licensed by the state in March 1995 and December 1993, respectively. When the state licenses for these facilities needed to be renewed by the owners, these individuals removed their names from the licenses. However, their wives received licenses and continue to operate the businesses.

The Director of the Animal Health Division stated he had resolved the conflicts when he made arrangements to have the program coordinator's and the state inspector's commercial breeding facilities independently inspected by U. S. Department of Agriculture inspectors. These independent inspections do not resolve the issues of ownership and spousal relationship that are at the core of the conflict of interest. The issue is whether the individuals hired could carry out their duties, one as the manager of the inspection program and the other as an inspector, without bias. Biases that could occur either intentionally or unintentionally would include lax inspections of fellow breeders and reluctance to sanction violators of the law.

Close ties with
commercial
breeder
industry

Conclusions

It is incumbent upon senior managers to ensure that conflicts of interest do not occur within their organizations and questions regarding conflicts of interest should be resolved before employees are hired.

Recommendation

We recommend the Director, Department of Agriculture:

- 2.1 Resolve all conflicts of interest or the appearance of a conflict of interest within the Animal Care Facilities Inspection Program.

Director, Department of Agriculture Comments

Full text comments are included in Appendix III, page 23.

The department strives to hire the most qualified candidates for any position. Both the Animal Care Facilities Act program coordinator and animal health officer in question have the necessary experience, knowledge, skills and abilities to perform the requirements of their respective positions. Both individuals resigned interests in their commercial pet breeding operations by removing their names from the business' license. In addition, to avoid any appearance of a conflict of interest, the state veterinarian asked the U. S. Department of Agriculture to inspect the facilities owned and operated by the spouses of the program coordinator and animal health officer and that the reports be sent directly to the state veterinarian. These measures have ensured that these facilities receive no preferential treatment during annual inspections. A staff attorney for the Missouri Senate has reviewed the situation and has issued a legal opinion stating that no conflict of interest exists within the Animal Care Facilities Act Program. Moreover, a Legislative Oversight Division audit released last February cited no conflict of interest.

State Auditor Comments

Subsequent to receiving the Department's official response, effective January 26, 2001, the program coordinator and the inspector were reassigned to other duties within the Department of Agriculture and no longer have a role in the canine inspection program.

3. Program Officials Have Not Taken Advantage of Federal Inspection Resources to Enhance Operations

Audit tests of inspection reports on 40 facilities disclosed that state inspectors have, at times, unnecessarily duplicated federal inspection efforts. This occurred because program officials have not coordinated inspection efforts with federal inspectors. As a result, both the federal and state inspectors, in a short timeframe, may inspect dually licensed facilities. Program officials have also failed to use federal inspection reports to enhance their oversight of breeders. As a result, state inspectors are not able to effectively monitor commercial breeder facilities.

State and federal inspectors are overlapping each other's inspections

According to inspection reports of 40 commercial breeder facilities, 92 state inspections were completed from May 1998 through April 2000. Twenty of the 92 inspections (22%) were completed within 10 days of a federal inspection. State inspectors inspected 2 facilities on the same day and 3 facilities within 1 day of federal inspectors. See page 4 for a further discussion of the cases reviewed.

Two facilities
were inspected
the same day

Initially, program officials relied on federal personnel to inspect dually licensed commercial breeder facilities in the state. In 1994, program and federal officials executed a memorandum of understanding designed to reduce unnecessary duplication of services by establishing procedures to use federal inspectors as agents for the state and use federal inspection reports. The memorandum allowed program officials to appoint federal inspectors to inspect program facilities, thereby relieving state inspectors of that responsibility. However, in 1995, the previous program coordinator directed state inspectors to conduct inspections of some dually licensed facilities. Then, in May 1996, the program coordinator notified state inspectors to concentrate inspections on dually licensed facilities because he believed state program records should reflect inspections done by state inspectors. In addition, he preferred that inspections not be conducted jointly with federal inspectors.

Federal
inspectors are
agents of state
in some cases

The Director, Animal Health Division, stated that he was not satisfied with the quality of federal inspections and that the federal inspectors were untimely in sharing inspection reports. He also stated that he emphasized inspecting dually licensed facilities because the commercial breeders were complaining that state inspectors were not inspecting their facilities even though federal inspectors were inspecting those facilities. Rather than inform the complainants that the federal inspectors were also agents of the state, he initiated state inspections. There was no documentation to support that federal inspections were low quality and, based on our review, federal inspections were more thorough and more convincing than state inspections.

Federal inspector reports are not being used

Program officials have made little, if any, use of federal inspection reports to help monitor dually licensed facilities. In accordance with the memorandum of understanding, federal personnel routinely send inspection reports to the state program office. These reports highlight inspection findings regarding commercial breeder facilities in the state. However, these reports are filed at

the state office and are not always sent to state inspectors, according to program personnel. As a result, state inspectors are not always aware of federal findings in regard to facilities that they inspect.

Conclusion

The memorandum of understanding was designed to assist the federal and state inspection programs by providing a vehicle for inspecting the many commercial breeders in the state. This memorandum of understanding adds value to the state inspection program and should be used. Audit results showed that state inspections are not as thorough as federal inspections, did not find problems with breeders that federal inspectors found, and did not set the stage for sanctioning breeders who repeatedly violated the law. Fortunately for the canines, federal inspections did cover some of the same facilities that the state inspectors covered. However, if state inspections are properly conducted, and if inspections are coordinated with federal inspectors, there would be no need for both state and federal inspectors to inspect the same facility within a short timeframe.

Recommendations

We recommend the Animal Health Division Director:

- 3.1 Institute formal procedures to increase coordination of inspections with federal officials to reduce unnecessary duplication of inspection efforts.
- 3.2 Resume the memorandum of understanding agreement to use federal inspectors as agents for the state and use the federal inspection results in evaluating compliance with state laws.
- 3.3 Ensure federal inspection reports are provided to and used by inspectors to enhance monitoring of facilities.

Director of Division of Animal Health Comments

Full text comments are included in Appendix III, page 23.

Recommendation 3.1—To date, the risk-based inspection worksheet provided to the federal animal welfare officials to direct their monthly activity is not a document that federal management will share with state management. The actual timing of documentation (receiving the inspection reports) of federal animal welfare official's activity is so inconsistent it makes coordination of inspection timing difficult.

Recommendation 3.2—The Memorandum of Understanding agreement entered into on May 3, 1994, continues to be in full effect since the original date of signing. As the federal risk-based inspection procedure is fully implemented, we plan to revisit the Memorandum of Understanding. The benchmarking of state and federal inspections in the audit coupled with time availability assessments will be very useful in the administration of the animal care program.

Recommendation 3.3—We will instruct our inspectors to review and use federal inspection forms when inspecting facilities. The logistics could best be carried out if the inspector asks for and reviews the last federal inspection report with the licensee before they commence their inspection.

State Auditor Comments

Coordinating inspections with the federal inspectors is critical to ensuring that inspections do not overlap. It is not relevant whether the federal risk-based inspection worksheet is shared with state inspection management officials. It is incumbent upon state inspection management officials to contact and notify federal inspection officials when and where they are going to inspect. This is a proactive effort that should be made by the Animal Care Facilities Act program coordinator. Since this response did not directly respond to the recommendation, we will follow-up with program officials.

4. Program Officials Make Little Use of Available Information to Improve Operations

Program officials have not effectively used information available in the management information database or in reports submitted by inspectors. Program officials have not used the database to develop a management reporting system to assess the status or the effectiveness of the inspection program. Officials have not taken advantage of information in the database on (1) federal inspection results; (2) the status of payments of licensing fees by inspectors; (3) revenue trends on per capita fees paid on canines; or (4) the number and types of facilities licensed by program officials. With the exception of one annual report that recaps licensing fee collections, reports are produced on an as requested basis, according to program personnel.

Key information in the database is not meaningful

Some information in the database is not adequate enough to be effectively used by program officials. For example, data on state inspection reports is not complete enough to allow management, if they choose, to analyze how effectively inspections are accomplished. Each inspector fills out an inspection report summarizing inspection results. However, because there are no formal procedures to guide inspectors on what to inspect or record on the report, it is up to inspectors as to what to report. These reports are entered into the database; however, program officials do not routinely review the reports.

Weekly activity reports could provide insight on how inspectors spend their time

Program officials have not analyzed weekly activity reports prepared by inspectors to improve the efficiency of inspection operations. These reports document daily activities of inspectors such as type of activity, the number of hours worked, and the number of miles driven. Inspectors prepare the reports, and the program coordinator reviews and signs them. The program coordinator does not use the reports for analytic purposes, and audit results show that the review is cursory at best.

To demonstrate the value of analyzing the activity reports, the weekly activity reports prepared by 5 full-time inspectors over a 4-month period disclosed some issues that would warrant at least an inquiry by the program coordinator regarding how time is spent by inspectors.

- Three inspectors spent a total of 40 hours, or 5 days, for activities such as cleaning, washing, and repairing state vehicles.
- One inspector spent 36 hours, or 4.5 days, “on call” at his residence. According to the inspector, he acted in the absence of the program coordinator, waiting for phone calls from personnel at the state office in Jefferson City in case they had program questions. According to program personnel, all inspectors, as well as the program coordinator, are equipped with pagers that could have been used to accommodate phone calls.
- One inspector spent 60 hours, or 7.5 days, completing paperwork and reports.

A review of weekly activity reports for one inspector over a 4-month time period disclosed the following regarding time charges for inspection related activities.

- The inspector's reported workday averaged 10.4 hours. To analyze these hours we had to make some conservative assumptions. Assuming a traveling speed of 50 miles per hour he averaged about 4 hours a day traveling an average of 198 miles during the 4-month period. About 6.4 hours remained to inspect an average of 3.37 facilities a day, which means he spent nearly 2 hours inspecting each facility. However, based on our observations of this inspector, as well as 2 other inspectors, it took from 15 to 30 minutes to inspect each of the 4 commercial breeder facilities. Table 2.2 depicts our analysis of the average inspection time, based on 30 minutes per inspection; average travel time, based on 50 miles per hour; and the average time spent per day compared to the time claimed by the inspector over the 4-month period.

Table 2.2: Analysis of Time Charges

Month	Computed inspection time (hours)	Computed driving time (hours)	Total time (hours)	Time claimed (hours)	Difference (hours)
June	1.6	4.4	6.0	10.6	4.6
July	1.9	3.7	5.6	10.4	4.8
August	1.5	3.8	5.3	10.1	4.8
September	1.8	3.9	5.7	10.5	4.8
4-month average	1.7	4.0	5.7	10.4	4.7

As shown above, when 30 minutes is used as the average time to conduct inspections, it significantly reduces the total time per day to conduct daily inspections—an average of 5.7 hours a day compared to the 10.4 hours reported by this inspector. Even if an average of 1 hour is allowed for each inspection, the difference in computed time and time reported by this inspector is 3 hours. When we brought this matter to the attention of program officials, they stated that the average time to complete an inspection is 4 hours. However, they did not have any data to support this statement, and we did not observe this level of effort by either the state or federal inspector.

Conclusions

Program officials have limited their visibility of inspector activities, inspection results, financial matters, and the inspection status of facilities by not having a management reporting system. Some database information needs to be improved before it can be effectively used, but improvements can be made. Other information, such as weekly activity reports, illustrates how information could be analyzed to gain a better understanding of inspectors' activities. Our analysis revealed that inspectors spend a significant amount of time on administrative matters, which when properly analyzed might prompt management to make adjustments to the inspector's activities to accommodate the program needs. We cannot conclude from our analysis whether inspectors are spending the proper amount of time on inspections, but we can conclude that a management reporting system with appropriate analysis would allow management an opportunity to question the inspectors' activities and design remedies if needed.

Recommendations

The Animal Health Division Director:

- 4.1 Review the existing information system to correct deficiencies.
- 4.2 Develop a management reporting system that will provide oversight over inspectors' activities, inspection results, financial matters, and the status of facilities inspected.

Director of Division of Animal Health Comments

Full text comments are included in Appendix III, page 23.

Recommendation 4.1—Improving the program's information system has been an ongoing project for the past two years. A committee of Animal Care Facilities Act officers, office staff and computer personnel has continually worked to upgrade information systems that can help our staff.

Recommendation 4.2—This will be a high priority starting immediately to explore every possible way to fully automate a management reporting system that meets our internal needs as well as the needs of our external customers.

OBJECTIVES, SCOPE AND METHODOLOGY

Objectives

The audit objective was to determine whether state inspection program officials provide effective management and oversight over the animal care facilities inspection program. Specifically, our objectives included determining whether (1) conflicts of interest exist within the program; (2) procedures exist to ensure inspections are adequate; (3) state inspectors are reporting violations noted during inspections; (4) fines or other penalties are pursued as a means to seek corrective action from commercial breeders; (5) state inspectors duplicate federal inspection efforts; and (6) officials use information available in providing oversight to the program.

Scope and Methodology

The Animal Care Facilities Act provides oversight authority to a broad array of commercial breeders, dealers, retail pet stores, and other facilities involved in the sale or care of canines. We focused the audit on commercial breeders because they represented over one half of licensed and registered facilities in the state, as of June 30, 2000. The audit period was calendar year 1998, 1999, and January 2000 through September 2000. Auditors conducted the audit at the program offices in Jefferson City, Missouri and at various inspection sites throughout the state.

To determine whether program officials have provided effective management and oversight, we:

- Reviewed program records and other material to determine potential for conflicts of interest. We contacted the Missouri Ethics Commission officials to determine whether any conflict of interest matters pertaining to the animal care facilities program had been brought before them for review. We also discussed these matters with program officials to determine whether they had taken any action on potential conflict of interest issues.
- Accompanied a federal inspector on two inspections and four state inspectors on six inspections to determine inspection practices and the thoroughness of inspections.
- Observed the federal inspector and discussed inspection procedures for federal inspections.
- Observed the time taken to conduct state and federal inspections; the type of violations cited; whether all violations were documented; and whether any apparent violations were overlooked.

APPENDIX I

- Reviewed the timing of inspections from our judgmental sample of 40 facilities to determine whether unnecessary duplication of federal inspections occurred and whether state inspectors made use of federal inspection reports.
- Reviewed the timing of 92 inspections that state inspectors conducted and compared those with the timing of federal inspections occurring in the same time frame.
- Reviewed reports for 92 inspections that were completed by state inspectors from May 1998 through April 2000.
- Reviewed program documentation pertaining to the coordination of inspection efforts and use of federal inspection reports. We interviewed knowledgeable state animal care personnel and state inspectors on the use of the federal inspection reports.
- Interviewed knowledgeable program personnel and reviewed program reports prepared by inspectors to determine whether program officials effectively use information available to them.
- Reviewed reports generated from the automated database and how the reports were used. We analyzed one report prepared by inspectors to ascertain whether information useful to management might result.
- Reviewed program records to determine whether sanctions such as fines, penalties, license suspensions and license revocations had been assessed against commercial breeders in the last 2 years.
- Reviewed federal records to determine the extent that federal inspectors had levied fines and penalties during the October 1999 through September 2000 time frame.
- Reviewed inspection records resulting from 74 state inspections and 142 federal inspections included in our judgmental sample of 40 commercial breeder facilities to determine the types of problems reported by state inspectors. We compared those results to federal inspection results for the same time frame. We also relied on personal observations obtained by accompanying four state inspectors on inspections of four commercial breeder facilities.

The audit was conducted in accordance with generally accepted government auditing standards.

APPENDIX II

BACKGROUND

The state legislature established the Animal Care Facilities Act in 1992 to provide state oversight to all breeders, dealers, exhibitors, hobbyists, boarders, retail pet stores, animal shelters, and municipal pounds involved in the sale or care of canines and cats that meet the requirements of the Act.

Chapter 273 of the state statutes sets forth the requirements for commercial breeders and other entities that fall under the jurisdiction of the Act. The following sections of the Act set forth pertinent requirements.

- Section 329 addresses the grounds for refusal to issue or renew or revoke a license. It states the following.
 - The director may refuse to issue or renew or may revoke a license on any one or more of the following grounds:
 - Material and deliberate misstatement in the application for any original license or for any renewal license under sections 273.325 to 273.357;
 - Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated pursuant thereto;
 - Conviction of any violation of any state or federal law relating to the disposition or treatment of animals;
 - Failure to provide adequate food, water, housing or sanitary facilities for animals under the control of an animal shelter, boarding kennel, commercial breeder, commercial kennel, contract kennel, dealer, pet shop, pound, or exhibitor as defined by regulations of the USDA.
 - Operation of an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, or activity as a commercial breeder or dealer without a valid license shall constitute a class A misdemeanor.
- Section 331 addresses the requirement to conduct inspections on a yearly basis. It states the following.
 - A license shall be issued only upon inspection by the state veterinarian, his designee, or an animal welfare official. A facility subject to the provisions of sections 273.325 to 273.357, at the time it applies for licensure, shall be granted a provisional license which shall allow operation of the facility until the facility is inspected or until December 31, 1994, whichever earlier occurs. The state veterinarian shall have the duty and authority to inspect all facilities licensed under sections 273.325 to 273.357. Inspections shall be conducted a minimum of once a year, or upon a complaint to the department regarding a particular facility.

APPENDIX II

- The validity of the complaint will be ascertained by the state veterinarian or his designated representative.
- Section 333 addresses the authority to take action and levy fines. It states the following.
 - The state veterinarian or an animal welfare official, upon his own information or upon the complaint of any person, may institute an investigation including the inspection during normal business hours of any premises or vehicle upon which any animal is or may be found, and may determine if any violation of sections 273.325 to 273.357 or of any rule promulgated pursuant to sections 273.325 to 273.357 is deemed to exist. The director, or his designee, may issue an order to the person responsible for the violation to appear at an administrative hearing. The director, or his designee, upon a finding that such a violation occurred after a hearing thereon, shall issue remedial orders enforceable in the circuit courts of this state to correct such violations, and in addition may assess an administrative penalty in an amount not to exceed one thousand dollars for each violation. In assessing the amount of penalty under sections 273.327 to 273.342, the director shall take into account the seriousness of the violation and the extent of damage to third parties and the state. All penalties collected shall be deposited to the state general revenue fund. In addition, the director may assess the reasonable costs of remedying a violation in the event that the person responsible is unwilling or unable to correct the violation within a reasonable period of time. Any person aggrieved by the decision of the director may appeal as provided in sections 536.100 to 536.140, RSMo.
- Sections 357 address how revenue generated under the program is treated. It states the following.
 - All fees collected by the director from licenses issued under sections 273.325 to 273.357 shall be used to administer the provisions of sections 273.325 to 273.357, and shall be deposited in the state treasury to the credit of the "Animal Care Reserve Fund", which is hereby created. All moneys deposited in the animal care reserve fund shall be subject to appropriation for the use and benefit of the department of agriculture to administer the provisions of sections 273.325 to 273.357. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the animal care reserve fund shall not be transferred to the general revenue fund at the end of the biennium.

The Missouri Department of Agriculture established the animal care facilities program in 1994, in order to carry out the provisions of the Act. With minor exceptions, state regulations parallel federal regulations that outline minimum requirements for the operation of animal facilities. In April of 1994, the director of the state Animal Health Division entered into a memorandum of understanding with the federal officials. That agreement promoted coordination between state and federal program officials to reduce duplication of effort by inspectors and established

APPENDIX II

procedures to share federal and state inspection reports on facilities that are licensed by state and federal officials. It also allowed program officials to appoint federal inspectors as agents to inspect for the state.

As of June 30, 2000, there were approximately 1,962 licensed and registered animal facilities in the state. Of that amount, approximately 1,107, or 56 percent, were licensed as commercial breeders. There are eight inspectors—five full-time and three part-time, inspecting facilities in the state.



DEPARTMENT of AGRICULTURE
STATE OF MISSOURI
JEFFERSON CITY

MEL CARNAHAN
GOVERNOR

JOHN L. SAUNDERS
DIRECTOR

January 12, 2001

Mr. William D. Miller
Director of Audits
Office of the State Auditor
Truman State Office Building, Room 880
Jefferson City, Missouri 65101

Dear Mr. Miller:

Thank you for the opportunity to review the **Draft** report of the **Audit of Animal Care Facilities Inspection Program** and to respond to the recommendations. The professionalism of your staff and the courtesy afforded our personnel during the audit process was appreciated.

Enclosed please find a letter from Director of Agriculture, John Saunders, to Auditor McCaskill along with a Draft Report of Recommendations and Responses and five supporting attachments.

If you have any questions regarding the responses to the recommendations or the supporting attachments please call me personally at (573) 751-3377.

Sincerely,

John W. Hunt, Jr., DVM
State Veterinarian – Director
Division of Animal Health

JWH/jfs

Division of Animal Health

Telephone (573) 751-3377 • 1616 Missouri Boulevard • P.O. Box 630 • Jefferson City, MO 65102-0630 • Division FAX (573) 751-6919



APPENDIX III

DEPARTMENT *of* AGRICULTURE
STATE OF MISSOURI
JEFFERSON CITY

MEL CARNAHAN
GOVERNOR

JOHN L. SAUNDERS
DIRECTOR

January 12, 2001

The Honorable Claire C. McCaskill
State Auditor
224 State Capitol
Jefferson City, MO 65101

Dear Auditor McCaskill:

Thank you for your recent audit of the department's Animal Care Facilities Act Program. This letter will serve as my formal response to your recommendation that I resolve all conflicts of interest or the appearance of a conflict of interest within the program.

The department strives to hire the most qualified candidates for any position. Both the ACFA program coordinator and animal health officer in question have the necessary experience, knowledge, skills and abilities to perform the requirements of their respective positions.

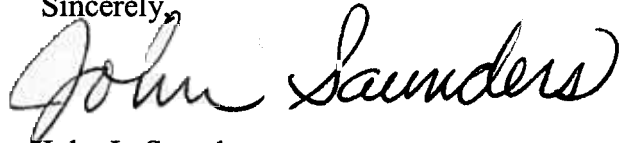
When they were hired, both individuals resigned interests in their commercial pet breeding operations by removing their names from the business' license. In addition, to avoid any appearance of a conflict of interest, Dr. John Hunt, the state veterinarian in charge of the department's Animal Health Division, asked the U.S. Department of Agriculture to inspect the facilities owned and operated by the spouses of the ACFA program coordinator and animal health officer. Dr. Hunt also asked that the federal inspection reports be sent directly to him for review and approval so that he could personally monitor the operations of these facilities. These measures have ensured that these facilities receive no preferential treatment during annual inspections.

Furthermore, a staff attorney for the Missouri Senate has reviewed the situation and has issued a legal opinion stating that no conflict of interest exists within the Animal Care Facilities Act Program. Moreover, a Legislative Oversight Division audit released last February cited no conflict of interest.

Auditor McCaskill
January 11, 2001
Page Two

I remain confident that the relationship between these two ACFA program employees and Missouri's companion animal industry is a benefit, not a hindrance, to the well-being of the animals raised in state licensed and inspected facilities.

Sincerely,

A handwritten signature in black ink that reads "John L. Saunders". The signature is written in a cursive style with a large, stylized "J" and "S".

John L. Saunders
Director of Agriculture

DRAFT REPORT**Audit of Animal Care Facilities Inspection Program
Recommendations and Responses****1.1 Establish formal inspection procedures to ensure that inspectors have adequate guidance to follow in conducting inspections.**

The Animal Care Inspection Worksheet (Attachment One) once served as the first page of the inspection report, with narratives cited on subsequent pages.

Although we believe the narrative report we use now is easier to read, the Animal Care Inspection Worksheet will be added to the official inspection report.

Missouri Statute 273.344 requires that all facilities licensed under the Animal Care Facilities Act (ACFA) comply with standards relating to the following:

1. Adequate shelter, including proper conditions of sanitation and ventilation.
2. Adequate food and water; and
3. Maintenance of records of acquisition and disposition of animals in custody of the licensee.

80% of the inspection worksheet items relate to items one and two (Items 10-44 on Attachment 1)

20% of the inspection worksheet items relate to item three (Items 45-49 on Attachment 1)

Management relies heavily on the USDA Animal Welfare officials to oversee maintenance of records and disposition of animals in the custody of the licensee.

1.2 Establish a formal training program to ensure inspectors are adequately trained.

The following are dates of meetings/trainings held for all ACFA employees:

August 8, 9, 10 & 11, 1994

First work conference for all Animal Health employees for review of ACFA rules & inspection standards.

August 24, 1994

Starting date to ride with two different USDA inspectors for three weeks each to get training in doing inspections in ACFA program.

March 13, 14 & 15, 1995

ACFA work conference

May 22, 23 & 24, 1995

ACFA work conference

September 27 & 28, 1995

ACFA work conference

January 1996

Started inspecting USDA facilities

February 21 & 22, 1996

USDA meeting on proposed changes in AWA in Kansas City, Missouri

February 23 & 24, 1996

USDA meeting in St. Louis, Missouri

April 17 & 18, 1996

ACFA work conference

April 21, 22, 23, 24, 25 & 26, 1996

Regulatory Enforcement & Administrative Law Course at University of Missouri-Columbia for ACFA personnel – 40-hour course

September 10 & 11, 1996

ACFA work conference

April 3 & 4, 1997

ACFA & AWA work conference in Springfield, Missouri

March 25 & 26, 1998

ACFA work conference in Springfield, Missouri

September 29, 1998

ACFA work conference in Jefferson City

February 24 & 25, 1999

ACFA work conference in Springfield, Missouri

May 26, 1999

Midwest Regional Animal Care meeting between USDA, Kansas & Missouri officials at Powell Gardens

October 7, 1999

ACFA work conference in Columbia, Missouri

February 23 & 24, 2000

ACFA work conference in Springfield, Missouri

October 19 & 20, 2000

ACFA work conference in Columbia, Missouri

November 30, 2000

ACFA work conference in Jefferson City

February 2001

ACFA work conference in Jefferson City

At our February 2001 ACFA work conference we will reevaluate all inspection procedures and develop a new employee-training workbook.

1.3 Ensure inspectors consistently follow inspection procedures to assure thorough inspections take place and that all violations are recorded and reported.

As stated in 1.1, the Animal Care Inspection Worksheet will be incorporated into the official inspection report. The work conference scheduled for February 2001 will stress the need to document all non-compliant items during an inspection; even those corrected the same day.

The ten federal animal welfare officials have 90% of their workload allotted to the oversight of commercial breeders in Missouri (10% of time spent with other classes of licensees – dealers & exhibitors). The eight state animal welfare officials have 55% of their time allotted to the oversight of commercial breeders in Missouri (45% allotted to the other classes of licensees).

FEDERAL	
10 FTE	1,744 Annual Working Hours
x 90 %	x 9 FTE
9 FTE	15,696 Hours – 1,107 Facilities = 14.18 Hours
STATE	
8 FTE	1,744 Annual Working Hours
x 55 %	x 4.4 FTE
4.4 FTE	7,673.6 Hours – 1,107 Facilities = 6.93 Hours

Federal animal welfare officials have more than twice the working hours of state inspectors per licensee per year to provide oversight of commercial breeders.

1.4 Take action to enforce penalties in order to ensure commercial breeders comply with provision of the Act.

The following documents are examples of actions taken to enforce penalties to ensure commercial breeders comply with provisions of the Act:

Section 273.329 – Attachment Two – Brown Case (Fail to Issue)

Section 273.333 - Attachment Three – Lutz (Hearing)

Section 273.335 (573.018), 273.329 – Attachment Four – Daugherty (Voluntary Surrender)

Section 273.333 – Attachment Five – Foster (Category V's)

The above examples were given of the different sections that allow for penalties or sanctions under state statutes.

The following is an overview of the procedures used by federal authorities that address penalties or sanctions under Federal Law:

According to federal animal care management, if a licensee does not correct a category IV by the next inspection, there may be a letter of warning issued and an investigation initiated by Investigative Enforcement Services (IES) or both. Once animal care management receives an investigative report by IES, management of animal care and IES decides upon a stipulation with penalties. IES personnel then try to negotiate a stipulated agreement with the licensee. If no agreement is reached between IES and the licensee, then the case is turned over to the Office of General Counsel (OGC). Attorneys with the OGC then go through the procedure to try to settle with the licensee through a consent decision. If a consent decision cannot be negotiated, the case may be scheduled for a hearing before an administrative law judge. If animal care management and IES are in agreement, cases may be sent directly to OGC and the stipulation process is bypassed. Of the cases closed in this fiscal year, there were no cases sent directly to the OGC.

A recap of the penalties and sanctions imposed on Missouri commercial breeders by federal authority for the fiscal year 2000 follows:

NUMBER	ACTION TAKEN	TYPE
4	No Action Taken	Denied & Declined – DD
16	Letters of Warning	Closed Ticket – TK
15	Stipulated Agreement	Stipulation – SP
4	Consent Decisions	Consent – CS
1	Default Decision	Judges Order w/No Response – DF
0	Decision & Order	Judges Order After Hearing - DO

APPENDIX III

35 found closure – remedy with IES & animal care management procedure.
5 found closure – remedy with OGC-consent decision & default decision.
0 cases received an evidentiary hearing before an administrative law judge or hearing officer.

However, Missouri law does not establish a separate investigative arm to parallel federal procedures when taking punitive action against a licensee. We are exploring the possibility of developing language in the Memorandum of Understanding (MOU) to utilize the IES investigator in our state to help develop investigative reports that might lead to an administrative hearing.

In addition, a MOU has been signed between the Missouri Administrative Hearing Commission (MHC) and the Missouri Department of Agriculture (MDA) to provide hearing officers for administrative appeals.

Institute formal procedures to increase coordination of inspections with federal officials to reduce unnecessary duplication of inspection efforts.

To date, the risk-based inspection worksheet provided to the federal animal welfare officials to direct their monthly activity is not a document that federal management will share with state management. The actual timing of documentation (receiving the inspection reports) of federal animal welfare official's activity is so inconsistent it makes coordination of inspection timing difficult.

Resume the Memorandum of Understanding agreement to use federal inspectors as agents for the state and use the federal inspection results in evaluating compliance with state laws.

The Memorandum Of Understanding agreement entered into on May 3, 1994, continues to be in full effect since the original date of signing. As the federal risk-based inspection procedure is fully implemented, we plan to revisit the MOU.

The benchmarking of state and federal inspections in the audit coupled with time availability assessments will be very useful in the administration of the animal care program. It is reassuring to management that although the statute only requires one inspection annually for licensure, which would have required 80 inspections in the two-year period of 40 facilities, 216 inspections were completed. This equates to 2.7 inspections per year or one inspection every 4.5 months.

APPENDIX III

The Missouri Department of Agriculture continues to partner with USDA to improve the inspection processes of both agencies, which ultimately improves the care and well being of animals reared in commercial breeding facilities. Management believes that the licensure and inspection of commercial breeding facilities and dealers should remain the highest priority in the administration of the Animal Care Program.

Ensure federal inspection reports are provided to and used by inspectors to enhance monitoring of facilities.

We will instruct our inspectors to review and use federal inspection forms when inspecting facilities. The logistics could best be carried out if the inspector asks for and reviews the last federal inspection report with the licensee before they commence their inspection.

Review the existing information system to correct deficiencies.

Improving the program's information system has been an on going project for the past two years. A committee of ACFA officers, office staff and computer personnel has continually worked to upgrade information systems that can help our staff. The printout for ACFA officers has been changed several times with all the information that they have requested being on the new printout.

Develop a management reporting system that will provide oversight over inspectors' activities, inspection results, financial matters and the status of facilities inspected.

This will be a high priority starting immediately to explore every possible way to fully automate a management reporting system that meets our internal needs as well as the needs of our external customers.